ternship under other provisions of law. In the case of an officer on active duty on the effective date of this section who is entitled to the credit authorized herein, the one year shall be added to the promotion and seniority-in-grade credits with which he is credited on such date.

(July 1, 1944, ch. 373, title II, § 220, as added Apr. 30, 1956, ch. 223, § 3, 70 Stat. 121.)

REFERENCES IN TEXT

For ''the effective date of this section'', referred to in text, see section 7 of act Apr. 30, 1956, which provided in part that this section shall become effective the first day of the month following the day of enactment, Apr. 30, 1956.

TRANSFER OF FUNCTIONS

Functions of Public Health Service, Surgeon General of Public Health Service, and all other officers and employees of Public Health Service, and functions of all agencies of or in Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out as a note under section 202 of this title. Secretary of Health, Education, and Welfare redesignated Secretary of Health and Human Services by section 509(b) of Pub. L. 96–88 which is classified to section 3508(b) of Title 20, Education.

§ 212. Retirement of commissioned officers

(a) Age; voluntariness; length of service; computation of retired pay

(1) A commissioned officer of the Service shall, if he applies for retirement, be retired on or after the first day of the month following the month in which he attains the age of sixty-four years. This paragraph does not permit or require the involuntary retirement of any individual because of the age of the individual.

(2) A commissioned officer of the Service may be retired by the Secretary, and shall be retired if he applies for retirement, on the first day of any month after completion of thirty years of active service.

(3) Any commissioned officer of the Service who has had less than thirty years of active service may be retired by the Secretary, with or without application by the officer, on the first day of any month after completion of twenty or more years of active service of which not less than ten are years of active commissioned service in any of the uniformed services.

(4) Except as provided in paragraph (6), a commissioned officer retired pursuant to paragraph (1), (2), or (3) who was (in the case of an officer in the Reserve Corps) on active duty with the Service on the day preceding such retirement shall be entitled to receive retired pay at the rate of 2½ per centum of the basic pay of the highest grade held by him as such officer and in which, in the case of a temporary promotion to such grade, he has performed active duty for not less than six months, (A) for each year of active service, or (B) if it results in higher retired pay, for each of the following years:

(i) his years of active service (determined without regard to subsection (d) of this section) as a member of a uniformed service; plus

(ii) in the case of a medical or dental officer, four years and, in the case of a medical officer, who has completed one year of medical internship or the equivalent thereof, one additional year, the four years and the one year to be reduced by the period of active service performed during such officer's attendance at medical school or dental school or during his medical internship; plus

(iii) the number of years of service with which he was entitled to be credited for purposes of basic pay on May 31, 1958, or (if higher) on any date prior thereto, reduced by any such year included under clause (i) and further reduced by any such year with which he was entitled to be credited under paragraphs (7) and (8) of section 205(a) of title 37 on any date before June 1, 1958;

except that (C) in the case of any officer whose retired pay, so computed, is less than 50 per centum of such basic pay, who retires pursuant to paragraph (1) of this subsection, who has not less than twelve whole years of active service (computed without the application of subsection (e) of this section), and who does not use, for purposes of a retirement annuity under subchapter III of chapter 83 of title 5, any service which is also creditable in computing his retired pay from the Service, it shall, instead, be 50 per centum of such pay, and (D) the retired pay of an officer shall in no case be more than 75 per centum of such basic pay.

(5) With the approval of the President, a commissioned officer whose service as Surgeon General, Deputy Surgeon General, or Assistant Surgeon General has totaled four years or more and who has had not less than twenty-five years of active service in the Service may retire voluntarily at any time; and except as provided in paragraph (6), his retired pay shall be at the rate of 75 per centum of the basic pay of the highest grade held by him as such officer.

(6) The retired pay of a commissioned officer retired under this subsection who first became a member of a uniformed service after September 7, 1980, is determined by multiplying—

(A) the retired pay base determined under section 1407 of title 10; by

(B) the retired pay multiplier determined under section 1409 of such title for the number of years of service credited to the officer under paragraph (4).

(7) Retired pay computed under section 211(g)(3) of this title or under paragraph (4) or (5) of this subsection, if not a multiple of $1, shall be rounded to the next lower multiple of $1.

(b) Basic pay of highest temporary grade

For purposes of subsection (a) of this section, the basic pay of the highest grade to which a commissioned officer has received a temporary promotion means the basic pay to which he would be entitled if serving on active duty in such grade on the date of his retirement.

(c) Recall to active duty

A commissioned officer, retired for reasons other than for failure of promotion to the senior grade, may (1) if an officer of the Regular Corps or an officer of the Reserve Corps entitled to retired pay under subsection (a) of this section, be involuntarily recalled to active duty during such times as the Commissioned Corps constitutes a branch of the land or naval forces of the United States, and (2) if an officer of either

the Regular or Reserve Corps, be recalled to active duty at any time with his consent.

(d) "Active service" defined

The term ''active service'', as used in subsection (a) of this section, includes:

(1) all active service in any of the uniformed services;

(2) active service with the Public Health Service, other than as a commissioned officer, which the Surgeon General determines is comparable to service performed by commissioned officers of the Service, except that, if there are more than five years of such service only the last five years thereof may be included;

(3) all active service (other than service included under the preceding provisions of this subsection) which is creditable for retirement purposes under laws governing the retirement of members of any of the uniformed services; and

(4) service performed as a member of the Senior Biomedical Research Service established by section 237 of this title, except that, if there are more than 5 years of such service, only the last 5 years thereof may be included.

(e) Crediting of part of year

For the purpose of determining the number of years by which a percentage of the basic pay of an officer is to be multiplied in computing the amount of his retired pay pursuant to section 211(g)(3) of this title or paragraph (4) of subsection (a) of this section, each full month of service that is in addition to the number of full years of service credited to an officer is counted as one-twelfth of a year and any remaining fractional part of a month is disregarded.

(f) Retirement or separation for physical disability

For purposes of retirement or separation for physical disability under chapter 61 of title 10, a commissioned officer of the Service shall be credited, in addition to the service described in section 1208(a)(2) of that title, with active service with the Public Health Service, other than as a commissioned officer, which the Surgeon General determines is comparable to service performed by commissioned officers of the Service, except that, if there are more than five years of such service, only the last five years thereof may be so credited. For such purposes, such section 1208(a)(2) shall be applicable to officers of the Regular or Reserve Corps of the Service.

(July 1, 1944, ch. 373, title II, § 211, 58 Stat. 688; Feb. 28, 1948, ch. 83, § 7, 62 Stat. 46; Oct. 12, 1949, ch. 681, title V, § 521(d), 63 Stat. 835; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Apr. 27, 1956, ch. 211, § 5(a)–(c), 70 Stat. 117; Aug. 10, 1956, ch. 1041, § 5, 70A Stat. 620; Pub. L. 86–415, § 4, Apr. 8, 1960, 74 Stat. 33; Pub. L. 91–253, § 1, May 14, 1970, 84 Stat. 216; Pub. L. 96–76, title III, § 308, Sept. 29, 1979, 93 Stat. 585; Pub. L. 96–342, title VIII, § 813(h)(2), Sept. 8, 1980, 94 Stat. 1110; Pub. L. 97–25, title III, § 303(b), July 27, 1981, 95 Stat. 145; Pub. L. 97–35, title XXVII, § 2765(a), Aug. 13, 1981, 95 Stat. 932; Pub. L. 98–94, title IX, §§ 922(d), 923(f), Sept. 24, 1983, 97 Stat. 642, 643; Pub. L. 99–348, title II, § 207(b), July 1, 1986, 100 Stat. 702; Pub. L. 101–509, title V, § 529 [title III, § 304(b)], Nov. 5, 1990, 104 Stat. 1427, 1464.)

CODIFICATION

In subsec. (a)(4), ''subchapter III of chapter 83 of title 5'' substituted for ''the Civil Service Retirement Act'' on authority of Pub. L. 89–554, § 7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

AMENDMENTS

1990—Subsec. (d)(4). Pub. L. 101–509 added par. (4).

1986—Subsec. (a)(6). Pub. L. 99–348 amended par. (6) generally. Prior to amendment, par. (6) read as follows: ''In computing retired pay under paragraph (4) or (5) in the case of any commissioned officer who first became a member of a uniformed service on or after September 8, 1980, the monthly retired pay base computed under section 1407(h) of title 10 shall be used in lieu of using the basic pay of the highest grade held by him as such officer.''

1983—Subsec. (a)(7). Pub. L. 98–94, § 922(d), added par. (7).

Subsec. (e). Pub. L. 98–94, § 923(f), substituted ''each full month of service that is in addition to the number of full years of service credited to an officer is counted as one-twelfth of a year and any remaining fractional part of a month is disregarded'' for ''a part of a year that is six months or more is counted as a whole year, and a part of a year that is less than six months is disregarded''.

1981—Subsec. (a)(1). Pub. L. 97–35 substituted ''shall, if he applies for retirement, be retired on or after'' for ''shall be retired on'', and substituted provisions relating to involuntary retirement as a result of age, for provisions relating to inapplicability to the Surgeon General.

Pub. L. 97–25 inserted provision that this paragraph does not apply to Surgeon General.

1980—Subsec. (a)(4). Pub. L. 96–342, § 813(h)(2)(A), substituted ''Except as provided in paragraph (6), a'' for ''A''.

Subsec. (a)(5). Pub. L. 96–342, § 813(h)(2)(B), substituted ''except as provided in paragraph (6), his'' for ''his''.

Subsec. (a)(6). Pub. L. 96–342, § 813(h)(2)(C), added par. (6).

1979—Subsec. (e). Pub. L. 96–76 struck out requirement respecting active service for purposes of credit.

1970—Subsec. (a)(4). Pub. L. 91–253 inserted ''plus'' after the semicolon at end of cl. (ii) and added cl. (iii).

1960—Pub. L. 86–415 amended section generally, and among other changes, authorized retirement of commissioned officers who have had less than 30 years of active service any time after the completion of 20 years of active service, permitted persons who have served as Deputy Surgeons General or Assistant Surgeons General for four or more years and who have had at least 25 years of active service to retire voluntarily at any time, provided for the recall to active duty of officers of the Reserve Corps entitled to retired pay under subsection (a) of this section during such times as the Corps constitutes a branch of the land or naval forces of the United States, authorized credit, for retirement purposes, of active service in the uniformed services and limited to five years the crediting of active service with the Public Health Service other than as a commissioned officer, and established the methods for computation of retired pay for active duty officers retiring for age or length of service.

1956—Subsec. (a). Act Apr. 27, 1956, § 5(a), authorized crediting of noncommissioned service for purposes of retirement.

Subsec. (b)(1). Act Apr. 27, 1956, § 5(b), authorized crediting of noncommissioned service in the Service for purposes of retirement.

Subsec. (c). Act Apr. 27, 1956, § 5(c), permitted recall of retired officers of the Regular Corps without their consent whenever the Regular Corps has military status,

and authorized recall of retired officers of the Regular or Reserve Corps with their consent at any time.

Subsec. (g). Act Aug. 10, 1956, provided for crediting of service for purposes of retirement or separation for physical disability under chapter 61 of title 10.

1949—Subsec. (a). Act Oct. 12, 1949, redesignated subsec. (b) as (a), substituted ''subsection (b)'' for ''subsection (c)'' and repealed former subsec. (a) relating to retirement for disability or disease.

Subsec. (b). Act Oct. 12, 1949, redesignated subsec. (c) as (b) and struck out reference to retirement for disability or disease. Former subsec. (b) redesignated (a).

Subsec. (c). Act Oct. 12, 1949, redesignated subsec. (d) as (c) and struck out reference to recovery from a disability. Former subsec. (c) redesignated (b).

Subsecs. (d) to (f). Act Oct. 12, 1949, redesignated subsecs. (e) to (g) as (d) to (f), respectively. Former subsec. (d) redesignated (c).

Subsecs. (g), (h). Act Oct. 12, 1949, redesignated subsec. (h) as (g) and amended subsection generally to relate to retirement or separation for physical disability. Former subsec. (g) redesignated (f).

1948—Subsec. (b). Act Feb. 28, 1948, inserted length of service for retirement purposes.

Subsec. (c)(2). Act Feb. 28, 1948, made subdivision applicable to grade of Assistant Surgeon General.

Subsec. (d). Act Feb. 28, 1948, substituted ''under the provisions of subsection (b) of this section'' for ''for age''.

Subsecs. (g), (h). Act Feb. 28, 1948, added subsecs. (g) and (h).

CHANGE OF NAME

Senior Biomedical Research Service changed to Silvio O. Conte Senior Biomedical Research Service by Pub. L. 103–43, title XX, § 2001, June 10, 1993, 107 Stat. 208. See section 237 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Section 529 [title III, § 304(c)] of Pub. L. 101–509 provided that: ''Except as otherwise provided, the provisions of this section [enacting section 237 of this title and amending this section] shall be effective on the 90th day following the date of the enactment of this Act [Nov. 5, 1990].''

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by section 922(d) of Pub. L. 98–94 effective Oct. 1, 1983, see section 922(e) of Pub. L. 98–94, set out as a note under section 1401 of Title 10, Armed Forces.

Amendment by section 923(f) of Pub. L. 98–94 applicable with respect to the computation of retired or retainer pay of any individual who becomes entitled to that pay after Sept. 30, 1983, see section 923(g) of Pub. L. 98–94, set out as a note under section 1174 of Title 10.

EFFECTIVE DATE OF 1970 AMENDMENT

Section 2 of Pub. L. 91–253 provided that: ''The amendments made by this Act [amending this section] shall apply in the case of retired pay for any period after the month in which this Act is enacted [May 1970].''

EFFECTIVE DATE OF 1960 AMENDMENT

Section 8(b) of Pub. L. 86–415 provided that: ''The amendment made by section 4 [amending this section] shall become effective on the date of enactment of this Act [Apr. 8, 1960] in the case of commissioned officers of the Regular Corps of the Public Health Service, and on July 1, 1960, in the case of commissioned officers of the Reserve Corps of the Public Health Service.''

EFFECTIVE DATE OF 1949 AMENDMENT

Amendment by act Oct. 12, 1949, effective Oct. 1, 1949, see section 533(a) of act Oct. 12, 1949, set out as a note under section 854a of Title 33, Navigation and Navigable Waters.

SAVINGS PROVISION

Pub. L. 86–415, § 8(c), (d), Apr. 8, 1960, 74 Stat. 36, provided that:

''(c) An officer in the Regular Corps on active duty on the date of enactment of this Act [Apr. 8, 1960] may be retired and have his retired pay computed under section 211 of the Public Health Service Act, as amended by this Act [this section], or, if he so elects, under such section as in effect prior to the date of enactment of this Act [Apr. 8, 1960].

''(d) The limitation under subsection (f) of section 211 of the Public Health Service Act, as amended by this Act [subsec. (f) of this section], on the amount of active service with the Public Health Service, other than as a commissioned officer, which may be counted for purposes of retirement or separation for physical disability, shall not apply in the case of any officer of the Reserve Corps of the Public Health Service on active duty on June 30, 1960.''

TRANSFER OF FUNCTIONS

Functions of Public Health Service, Surgeon General of Public Health Service, and all other officers and employees of Public Health Service, and functions of all agencies of or in Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out as a note under section 202 of this title. Secretary of Health, Education, and Welfare redesignated Secretary of Health and Human Services by section 509(b) of Pub. L. 96–88 which is classified to section 3508(b) of Title 20, Education.

Functions of Federal Security Administrator transferred to Secretary of Health, Education, and Welfare and all agencies of Federal Security Agency transferred to Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, set out as a note under section 3501 of this title. Federal Security Agency and office of Administrator abolished by section 8 of Reorg. Plan No. 1 of 1953. Secretary and Department of Health, Education, and Welfare redesignated Secretary and Department of Health and Human Services by section 509(b) of Pub. L. 96–88 which is classified to section 3508(b) of Title 20.

DELEGATION OF FUNCTIONS

Functions of President delegated to Secretary of Health and Human Services, see Ex. Ord. No. 11140, eff. Jan. 30, 1964, 29 F.R. 1637, as amended, set out as a note under section 202 of this title.

COVERAGE UNDER CIVIL SERVICE RETIREMENT ACT

Creditable service for purposes of the Civil Service Retirement Act for certain commissioned officers of the Regular or Reserve Corps of the Public Health Service, see section 6(a), (b) of Pub. L. 86–415, set out as a note under section 8332 of Title 5, Government Organization and Employees.

§ 212a. Repealed. Pub. L. 93–222, § 7(b), Dec. 29, 1973, 87 Stat. 936

Section, act July 1, 1944, ch. 373, title XIII, § 1312, formerly title VII, § 712, as added Feb. 28, 1948, ch. 83, § 9(b), 62 Stat. 47; renumbered title VIII, § 812, July 30, 1956, ch. 779, § 3(b), 70 Stat. 721; renumbered title IX, § 912, Sept. 4, 1964, Pub. L. 88–581, § 4(b), 78 Stat. 919; renumbered title X, § 1012, Oct. 6, 1965, Pub. L. 89–239, § 3(b), 79 Stat. 931; renumbered title XI, § 1112, Dec. 24, 1970, Pub. L. 91–572, § 6(b), 84 Stat. 1506; renumbered title XII, § 1212, May 16, 1972, Pub. L. 92–294, § 3(b), 86 Stat. 137; renumbered title XIII, § 1312, Nov. 16, 1973, Pub. L. 93–154, § 2(b)(2), 87 Stat. 604, provided for retirement of certain officers of Reserve Corps of the Public Health Service for disability.